\* ZONING COMMISSIONER

(1512 Mt. Carmel Road) \* OF BALTIMORE COUNTY 7th Election District 3rd Councilmanic District \* Case No. 88-477-SPH

Mary E. Ritzmann, et ux Petitioners

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \*

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a retail establishment and to permit the operation of a video tape rental business in conjunction therewith, as more particularly described in Petitioner's Exhibit 2.

The Petitioners, by Mr. Ritzmann, appeared, testified and were represented by Jeffrey H. Gray, Esquire. Also appearing in support of the Petition was Judge John E. Ensor. There were no Protestants.

Testimony indicated that the subject property, zoned R.C. 2, consists of approximately 4.2 acres and is currently improved with two one and one-helf story buildings and a detached garage. Since the early 1930s, the property has enjoyed a combined residential and commercial use. Petitioner's testimony indicated that a lawn and garden supply sales and service center has operated out of the one and one-half story block building, as shown on Petitioner's Exhibit 2, for many years. In addition, the front portion of the one-and one-half story frame structure depicted in Petitioner's Exhibit 2 has been used, historically, since the mid 1930s, as a general store and in later years, as a small grocery store. Testimony further indicated that the majority of the property is undeveloped.

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this day of March 1988

Received by: <u>James E. Dver</u> Chairman, Zoning Plans

Advisory Committee

Petitioner Charles F. Ritzmann Petitioner's

Attorney Jeffrey H. Gray

88-477-5PH CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

District 7 ths Mary E. Ritzman et usk Location of property: NIS Int: Carriel Road, 859 Est Erna, Road 6 1512 Mt. Carmel Road)

Location of Signer In front of 1512 Met. Carriel Road Date of return: May 17, 1988

JEFFREY H. GRAY

different in character, nature, and kind:

BEGINNING for the outlines to include the same at a stone the end of the south fifty-five degrees west ninety-eight and one-half perches line of Lot No. 3, in a deed of conveyance from Alfred Sparks to Peter F. Wisner bearing date February 7, 1903, and recorded among the Land Records of Baltimore County in Liber N.B.M. No. 266, folio 228 &c, and running thence bounding on said lot and on Lot No. 1 of said deed south twenty-five and one-half degrees east forty and four tenths perches to a stone on the south edge of the Hereford Road and until it intersects the outlines of Evna School lot thence bounding on said road south eighty-eight degrees east fifteen and nine twenty fifth perches thence by lines of division as fixed and agreed upon north twenty-five and one-half degrees west one and two tenth perches to a stone on the northwest .dge of said Road still north twenty-five and one-half degrees west forty-eight perches to a stone and until it intersects the aforesaid south fifty-five degrees west ninety-eight and one-half perches line thence bounding thereon south fifty-nine and one-half degrees west fourteen and three fourths perches to the first place of beginning. Containing four acres and thirty-two square perches of land, more or less. The improvements thereon being now known as No. 1512 Mt. Carmel Road.

In support of Petitioners' testimony and evidence presented,

Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.)

Judge Ensor testified that both a lawn and garden supply center and the

general/grocery store have operated from the subject property since the

early 1940s and that the two structures in question have only been used

for commercial purposes. He testified that there has been no other commer-

describes a nonconforming use as a legal use that does not conform to a

use regulation for the zone in which it is located or to a special regula-

tion applicable to such a use. Section 104 of the B.C.Z.R. states as

"A nonconforming use (as defined in Section 101) may

continue except as otherwise specifically provided in

these Regulations; provided that upon any change from

such nonconforming use to any other use whatsoever, or

any abandonment or discontinuance of such nonconform-

ing use for a period of one year or more, or in case any nonconforming business or manufacturing structure

shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replace-

ment cost at the time of such loss, the right to con-

tinue or resume such nonconforming use shall termi-

nate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel

of land shall hereafter be extended more than 25% of

the ground floor area of buildings so used.

County, Maryland, 39 Md., App 257, 385 A2d 96 (1978) has established that

the following factors should be reviewed in determining the scope of an

reflect the nature and purpose of the original non-conforming

ing the original non-conforming use or does it constitute a use

(a) To what extent does the current use of these lots

(b) Is the current use merely a different manner of utiliz-

The Maryland Court of Special Appeals in McKemy v. Baltimore

(B.C.Z.R., 1955; Bill No. 18, 1976)"

activity in a nonconforming use case:

cial use of the property.

follows:

BEING the same lot of ground which by Deed dated February 14, 1968 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4850, folio 179, was granted and conveyed by Eleanor Pearl Mays, widow, unto George K. Kron and Shirley S. Kron, his wife, the grantors herein. Current Deed reference Liber 6664, folio 409.

Eight Hundred Fifty -nine feet to the intersection to Evna Road.

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

After due consideration of the testimony and evidence presented, it is clear that a nonconforming use of the subject property as a lawn and garden supply sales and service center and a general/grocery store exists. The facts and evidence in the record tend to establish the nonconforming use of the subject property since prior to January 1, 1945.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22 day of July, 1988 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a retail establishment, specifically, a lown and garden supply sales and service center and a general/grocery store, and additionally, to permit the operation of a video tape rental business in conjunction therewith, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED from and after the date of this Order, subject, however, to the following restric-

> 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made awars that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The nonconforming use granted herein is limited to the two one and one-half story buildings shown on Petitioner's Exhibit 2 and identified as the lawn and garden supply sales and service center, and video

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

July 22, 1988

Jeffrey H. Gray, Esquire 17000 York Road, P.O. Box 51 Monkton, Maryland 21111-0051

RE: PETITION FOR SPECIAL HEARING N/S Mt. Carmel Road, 859' E of Evna Road (1512 Mt. Carmel Road) 7th Election District; 3rd Councilmanic District Case No. 88-477-SPH

Dear Mr. Gray:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

> Very truly yours, J. Robert Hickins J. ROBERT HAINES Zoning Commissioner for Baltimore County

Enclosure cc: People's Counsel

JRH:bjs

rental, which is the proposed use in conjunction with the existing general/grocery store operation.

> Zoning Commissioner for Baltimore County

503

Dennis F. Rasmussen

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve \_the\_

/ continuation of a pon comforming use, to wit retail establishments -which-has-been-in-continuous-operation-for-a-period-commencing-prior to 135 wance of trader's license for video tape restal in Conjunction There-Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions are supplied to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. MAP NW 274 Legal Owner(s): Mary Ellen Ritzmann ----- (Type or Print Name) N-104,145 W- 23, 160 \_\_550\_S.\_Main\_Street\_\_\_\_1-717-235-2670

> Shrewsbury, Pennsylvania 17361 Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Charles F. Ritzmann Attorney's Telephone No.: 301-329-2104

-- 550 S.- Nain-Street----1-717-235-2670 Shrewsbury, Pennsylvania 17361 ORDERED By The Zoning Commissioner of Bait more County, this \_\_\_\_\_ day

11ANH 1958, that the subject matter of this potition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the Sth day of JUNE 19.58, at 2 o'clock

TIMATED LEMOTH OF HEARING -1/2013.

AVAILABLE FOR HEARING
MON./TUES./NOD. - NEXT TWO PERITES ESTIMATED LENGTH OF HEARING

Zoning Commissioner of Baltimore County.

RE: PETITION FOR SPECIAL HEARING N/S Mt. Carmel Rd., 859' E of Evna Rd. (1512 Mt. Carmel Rd.), 7th District

: BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

MARY E. RITZMAN, et ux,

NOTICE OF HEARING

The Zoning Commissioner of Bultimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified levels, in Rosss 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Jowson, Maryland as follows;

Petition for Special Hearing
Case number: 88-477-SPH
NS Mt. Carmel Road, 869'
E of Evna Road
(1512 Mt. Carmel Road)
7th Election District
3rd Councilmanic District
Petitioner(s):

Petitioner(s): Mary E. Ritzman, et al

Hearing Date: Wednesday, June 8, 1988 at 9:00 a.m.

Special Hearing: Non-conforming use, to wit, retail establishments which have been in continuous op-

eration for a period commencing prior to zoning through the date of this Petition and to permit assumes of trader's license for video tape

in the event that this Petition is

an the event that this Petition is granted, a building permit may be assued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any sequent for a stay of he insuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a publimore County will hold a publimore County will hold a publimore County will be concerned identified

Thesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing Case number: 88-477-5PH

NS Mt. Carmel Road, 859' E of Evna Road

(1512 Mt. Carmel Road)

7th Election District

Petitioner(s):

Mary E. Ritzman, et al.

Hearing Date: Wednesday, lume 8, 1988 at 9:10 s.m.

Special Hearing: Non-conforming use, to wit, retail establishments which have been an continuous operation for a period commencing prior to zoning through the date of this Petition and to permit issuance of trader's license for video tape mental in conjunction therewith.

ROBERT HAINES

Case No. 88-477-SPH

### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Fredman

Peter Max Zimmerman Deputy People's Counsel Room 223, Court House Towson, Maryland 21204 494-2188

I HEREBY CERTIFY that on this 29th day of April, 1988, a copy of the foregoing Entry of Appearance was mailed to Jeffrey H. Gray, Esquire, 17000 York Rd., P. O. Box 51, Monkton, MD 21111-0051, Attorney for Petitioners.

## "DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., May 18, 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each successive weeks, the first publication appear-

5. Zehe Olm Publisher

\$ 58.00

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD. May 19, 19.88 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on May 19, 19. 88

5. Zehe Olm

Baltimore County
Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204

ign and post set(s), there

ee for each set not

Dennis F. Rasmussen County Executive

Mr. & Pes. Cherles F. Ritzmen 550 S. Rain Street Shrowsbury, Pennsylvenia 17301

Petition for Special Hearing CASE NUPBER: 88-477-59H MS Mt. Carmel Road, 850° E of Evns Road (1512 Mt. Carmal Road) 7th Election District - 3rd Councilments District Petitioner(s): Mary E. Ritzmen. et al HEARDIG SCHEDILED: MEDICHDAY, JUNE 8, 1998 of \$100 c.m.

Door Pr. & Mrs. Altamons

Please be advised that  $\frac{10.30}{10.30}$  is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin,

No. 52738

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

-01-615-000

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

Paul H. Reincke

J. Robert Haines **Zoning Cammissioner** Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

Re: Property Owner: Mary E. Ritzman, et ux

Location: N/S Mt. Carmel Rd., 859' E. of Evna Road Zoning Agenda: Meeting of 3/29/88

Item No.: 337 Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

April 5, 1988

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_ feet along an approved r id in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at

( ) 4. The site shall be made to comply with all applicable parts of the

EXCEFDS the maximum allowed by the Fire Department.

( $_{\rm X}$ ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

Fire Prevention Code prior to occupancy or beginning of operation.

( ) 6. Site plans are approved, as drawn.

REVIEWER: Cot local Kell, 4-5-56 Approved:

Flagming Group

Special Inspection Division

Noted and Approved:

File Prevention Bureau

Dennis F. Rusmussen
County Executive

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Hainer Zoning Commissioner

NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

> Patition for Special Hearing CASE REPORTE 86-477-504 HS Mt. Carmel Road, 858° E of Evne Hoed (1512 Pt. Carmal Road) 7th Clection District - 3rd Councileanie District Putitioner(s): Pary E. Ritzman, et al HENTING SCHOOLEDS WEINESONY, JUNE 8, 1988 of 9100 a.m.

Special Hearings Non-conforming use, to uit, retail establishments which have been in continue operation for a period commencing prior to roning through the date of this Petition and to permit issuance of trader's license for video tope rental in conjunction therewith.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County

cos Mary E. Riteman, et al

# D PETTION EXHIBIT.

WE, THE UNDERSIGNED RESIDENCES OF BALTIMORE COUNTY, ASK THE ZONING COMMISSION OF BALTIMORE COUNTY TO GRANT THE

REQUESTED VARIANCE FOR THE VIDEO STORE AT 1512 MT. CARMEL ROAD, PARKTON, MARYLAND 21120.

PHONE NO. 3026 2000 11/2d. Cesaro 473-3564 Koulbillets 2009 Stringtow Rd. md. 472-2545 5 puis 16420 Nobbs Rd Sparks no 771-4751 Hogan 4024 Balleypielle Del Hampstad, ind. 3513 YOUNG ROAD MILLERS MD. 21107 239-85-40 hode 17201 Huter Then Rd Up 240 21/55 239. 329-6PF9 1744 Pathon Par Rd PARKEN M. 357-3861 17114 MASEMORE D. PRIKEN MD. ZUZO 343-1226 Po Ma Lautene mo 21053 343-0043 maritatinack 1 BOX45 Spants Thing Branlas 1724 / Masemne 12 d 21100 357.546 909 Mt. CARME/ Rollar 5 1 x1120 343-0339 Summers 1512 Mt. CARDEL ROSD Parton M. 2335 Benson M. 11 Rd Sparks 472-2156 Din m Bold 1916 AKHYET RO SPACKE MD 21152 771-4781

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

Maryland Department of Transportation State Highway Administration Richard H. Trainor Hal Kassoff

March 31, 1988

Mr. J. Robert Haines Zoning Commissioner County Office Building Towon, Maryland 21204 Att: James Dyer

RE: Baltimore County Mary E. Ritzman Property Zoning meeting 3/29/88 N/S Mt. Carmel Road 859' east of Evna Road Item #337

Dear Mr. Haines:

After reviewing the submittal for a special hearing for the continuation of a non-conforming use, the State Highway Administration-Bureau of Engineering Access Permits has the following comment.

shown on the attached revised plan.

this office (333-1350).

Creston J. Hills, Jr.
Acting Chief-Bureau of
Engineering Access Permits

LB/es cc: J. Ogle w/att.

ZONING OFFICE

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toli Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Jeffrey H. Gray, Esquire

MEMBERS

Bureau of Eudruseifud Department of Traffic Engineering State Roads Commission Bureau of

COUNTY OFFICE BLDG.

111 W. Chesapeaks Ave.

Towson, Maryland 21204

Health Department Project Planning Building Department Board of Education Ioning Administration

17000 York Road, P.O. Box 51 Monkton, Maryland 21111-0051

RE: Item No. 337 - Case No. 88-477-SPH Petitioner: Charles F. Ritzmann Petition for Special Hearing Dear Mr. & Mrs. Ritzmann:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

May 17, 1988

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly. Very truly yours,

> Janus & Dyelle JAMES E. DYER Chairman Zoning Plans Advisory Committee

JED:dt Enclosures

We recommend that a channelized 35' entrance be constructed with State Highway Administration concrete curb and gutter as If you have any questions, please contact Larry Brocato of Very truly yours,

Raltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

May 6, 1988



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 336 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, and 347.

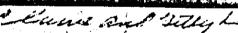
Very truly yours,

Stephen E. Weber, P.E. Assistant Traffic Engineer

SEW/RF/pm1-b

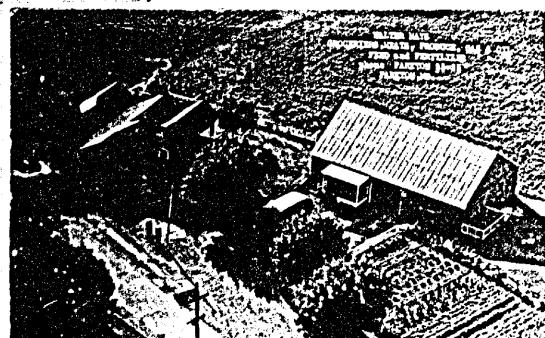












## BATIMORE COUNTY, MARYAND

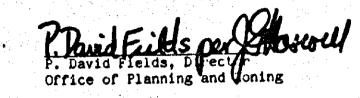
INTER-OFFICE CORRESPONDENCE

TO J. Robert Haines
Zoning Commissioner

FROM P. David Fields, Director
Office of Planning and Zohing

SUBJECT Zoning Petitions #88-477-SpH 88-478-SpH, 88-489-SpH, 88-494-A, 88-497-SpH

In view of the subject of these petitions, this office offers no comment.



PDF/jat

cc: Shirley Hess, People's Counsel
J. G. Hoswell
Zoning Office



ZONING OFFICE

